

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

SEP 01 2010
Clerk
S.D.S.D.

UNITED STATES OF AMERICA, * CR 10-40007

Plaintiff, *

vs. * ORDER

ANDRE GILBERT,
a/k/a "Garbage," a/k/a "Dre;" and
JAMES MICHAEL WILBOURN,
a/k/a "Mike," *

Defendants. *

Defendant James Michael Wilbourn filed on August 20 through the 25th, 2010, a Renewal of Motion to Grant Sever Trials, Doc. 63, a Motion for Discovery Hearing, Doc. 64, a Motion for Discovery Delay Initial Appearances Rule 5 of the Federal Rules of Criminal Procedure, Doc. 65, and a Motion to Suppress Evidence, Doc. 66; and on September 1, 2010, a Motion for Discovery Speedy Trial Act Violation Rule 48(b) Federal Rules of Criminal Procedure, Doc. 67.

Counsel for Defendant Andre Gilbert has filed a Third Motion for Continuance, Doc. 61, requesting the Court continue the plea deadline and the trial date, and counsel for the Government has no objection to the continuance. After consideration of the file in this matter, the Court finds that failure to grant the continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence and further that failure to grant the continuance would deny the public interest in bringing this case to trial in an orderly fashion. Further, the Court finds that the ends of justice served by continuing this trial outweigh the best interests of the public and the Defendants in a speedy trial. For all of those reasons as well as those set forth in the Motion,

IT IS ORDERED:

1. That opposing counsel shall respond to the pending motions of Defendant

Wilbourn on or before September 7, 2010; and a hearing thereon will be held before The Honorable John E. Simko, in Sioux Falls, South Dakota, on Monday, September 13, 2010, at 2:30 P.M.; and the Court will not consider a stock motion for leave to file further motions, however, the Court will consider a motion filed by a party after the deadline if the party can show good cause as to why the motion was late filed.

2. That the Defendant Andre Gilbert's Third Motion for Continuance, Doc. 61, is granted.
3. That September 17, 2010, is hereby set as the deadline for submission to the Court of any proposed plea agreement.
4. That all motions in limine shall be in writing and filed, together with proposed instructions, with the Court ten (10) working days before trial.
5. That the jury trial herein for both Defendants shall commence in Sioux Falls, South Dakota, on Tuesday, October 19, 2010, with counsel to be present for motions in limine at 9:00 A.M., and with the jury to report at 9:30 A.M.
6. That the period of delay resulting from such continuance is excluded in computing the time within which the trial of the offense for the Defendants must commence, as the Court finds that the ends of justice served by taking such action outweigh the best interests of the public and the Defendants in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

Dated this 15th day of September, 2010.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Jackie Merschimer
DEPUTY